

## SANBORN LUMBER CO., INC.

MAY 19, 1970.—Ordered to be printed

Mr. BURDICK, from the Committee on the Judiciary,  
submitted the following

### REPORT

[To accompany H.R. 6402]

The Committee on the Judiciary, to which was referred the bill (H.R. 6402) for the relief of Sanborn Lumber Co., Inc., having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE

The purpose of the proposed legislation is to waive the time limitation contained in section 2680 of title 10, United States Code, and to permit consideration of the application of the Sanborn Lumber Co., Inc. for reimbursement of resettlement expenses in connection with the acquisition of its property for the Milford Dam and Reservoir project on the Republican River in Kansas; such application to be filed within 1 year from date of enactment of the bill.

#### STATEMENT

The Department of the Army in its report to the House Judiciary Committee on this bill stated that it had no objection to its enactment.

The property referred to in the bill was acquired by the Government in connection with the construction of the Milford Dam and Reservoir project on the Republican River in Kansas. This project was constructed by the Chief of Engineers under the supervision of the Secretary of the Army, as authorized by the Flood Control Act of September 3, 1954 (68 Stat. 1248, 1262). In this connection, the United States has acquired fee title to approximately 45,000 acres of land involving 675 tracts, and easements over 4,500 acres of land in 200 tracts. Among these lands were tracts 1358 and 1359 acquired in fee from the Sanborn Lumber Co.

Section 2680 of Title 10, United States Code, authorizes the Secretary of a military department to reimburse owners and tenants of lands acquired for that department, for reasonable expenses, losses and damages, incurred as a direct result of moving themselves and their possessions because of the land acquisition. However, it also provides that the application for reimbursement, by the owner or tenant, must be filed within 1 year after the date of acquisition or within 1 year after the property is vacated, whichever date is later.

The Sanborn Lumber Co. was the owner-occupant of business property in the City of Wakefield, Kans., comprising .70 acre of land with improvements, and designated as tracts 1358 and 1359 of the Milford Dam and Reservoir project, Kans. The Corps of Engineers acquired this property by direct purchase on June 14, 1965, for the sum of \$20,000 and the reservation of improvements. In anticipation of the acquisition, the lumber company had previously vacated the property on August 27, 1964. An application for reimbursement of moving expenses in the amount of \$1,575.73, dated January 31, 1967, was received by the Corps of Engineers on February 3, 1967. Since the application was not filed within the statutory time limit, the Sanborn Lumber Co. was advised that the corps was without authority to consider the same. Had the filing been timely, the claim would have been allowed in the full amount.

The Department of the Army in its report advised the House Judiciary Committee that the delay in filing the application within the prescribed time is attributed to the physical disability of Austin P. Sanborn, president and manager of the company. Information furnished the Department by his secretary indicates Mr. Sanborn suffered a heart attack which confined him for many weeks; that subsequently he worked only part time; during 1966 his condition became progressively worse and was often physically or mentally unable to conduct normal business operations. Mr. Austin P. Sanborn died in early 1967. The application was thereafter filed by his brother, Theodore A. Sanborn, as new president of the company.

The Army found that the circumstances outlined above and the practical difficulties which served to delay the filing provide a basis for that Department to withhold any objection to the bill. The Army report stated in this connection:

It is the general policy of this Department not to favor the waiver of statutory limitations where such affords a special preference over all other persons. However, in the instant case, it appears evident that the failure to submit a timely application was due to physical incapacity rather than negligence or inadvertence. It is believed the equitable consideration of Congress is warranted.

The committee agrees that relief is merited in this case and therefore recommends that the bill be considered favorably.

Attached hereto and made a part hereof is the report from the Department of the Army to the House Committee on the Judiciary.

DEPARTMENT OF THE ARMY,  
Washington, D.C., August 27, 1969.

HON. EMANUEL CELLER,  
*Chairman, Committee on the Judiciary,*  
*House of Representatives,*  
Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Army with respect to H.R. 6402, 91st Congress, a bill "For the relief of the Sanborn Lumber Co., Inc."

The general purpose of this bill is to authorize the Secretary of the Army to waive the time limitation contained in section 2680 of title 10, United States Code, and to permit consideration of the application of the Sanborn Lumber Co., Inc., for the reimbursement of resettlement expenses in connection with the acquisition of its property for the Milford Dam and Reservoir, Kans.; such application to be filed within 1 year from date of enactment of this act.

The Department of the Army interposes no objection to the enactment of this bill.

The Chief of Engineers, under the supervision of the Secretary of the Army, constructed the Milford Dam and Reservoir project on the Republican River, Kan., as authorized by the Flood Control Act of September 3, 1954 (68 Stat. 1248, 1262). In this connection, the United States has acquired fee title to approximately 45,000 acres of land involving 675 tracts, and easements over 4,500 acres of land in 200 tracts. Among these lands were tracts 1358 and 1559 acquired in fee from the Sanborn Lumber Co.

Section 2680 of title 10, United States Code, authorizes the Secretary of a military department to reimburse owners and tenants of lands acquired for that department, for reasonable expenses, losses, and damages, incurred as a direct result of moving themselves and their possessions because of the land acquisition. However, it also provides that the application for reimbursement, by the owner or tenant, must be filed within 1 year after the date of acquisition or within 1 year after the property is vacated, whichever date is later.

The Sanborn Lumber Co. was the owner-occupant of business property in the city of Wakefield, Kans., comprising 0.70 acre of land with improvements, and designated as tracts 1358 and 1359 of the Milford Dam and Reservoir project, Kansas. The Corps of Engineers acquired this property by direct purchase on June 14, 1965, for the sum of \$20,000 and the reservation of improvements. In anticipation of the acquisition, the lumber company had previously vacated the property on August 27, 1964. An application for reimbursement of moving expenses in the amount of \$1,575.73, dated January 31, 1967, was received by the Corps of Engineers on February 3, 1967. Since the application was not filed within the statutory time limit, the Sanborn Lumber Co. was advised that the corps was without authority to consider the same. Had the filing been timely, the claim would have been allowed in the full amount.

The delay in filing the application within the prescribed time is attributed to the physical disability of Austin P. Sanborn, president and manager of the company. Information furnished this Department by his secretary indicates Mr. Sanborn suffered a heart attack which con-

fined him for many weeks; that subsequently he worked only part time; during 1966 his condition became progressively worse and was often physically or mentally unable to conduct normal business operations. Mr. Austin P. Sanborn died in early 1967. The application was thereafter filed by his brother, Theodore A. Sanborn, as new president of the company.

It is the general policy of this Department not to favor the waiver of statutory limitations where such affords a special preference over all other persons. However, in the instant case, it appears evident that the failure to submit a timely application was due to physical incapacity rather than negligence or inadvertence. It is believed the equitable consideration of Congress is warranted.

Accordingly, the Department of the Army, in view of the mitigating circumstances, interposes no objection to the enactment of H.R. 6402.

While the enactment of this bill would not affect the budgetary requirements of the Department of the Army, it would involve the expenditure of approximately \$1,575.73, being the amount claimed.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report to the committee.

Sincerely yours,

THADDEUS R. BEAL,  
*Acting Secretary of the Army.*

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